

REMARKS

The final Office action dated January 22, 2010 has been carefully reviewed and the foregoing amendment has been made for reasons independent of patentability.

Status of the Claims

Upon entry of this amendment, claims 46-93 will be pending in this application. Applicants note that the final Office action indicates that claims 4, 5, 10, 11, 23, and 24 are allowed and claims 1-3, 7-9, and 12-22 are rejected. However, in Applicants' Amendment filed on September 28, 2009, claims 1-3, 5, 7-9, and 12-22 were canceled; claims 4, 10, 11, 23, and 24 were amended; and claims 25-45 were added. Claims 1-45 have been canceled and new claims 46-93 have been added in the foregoing amendment. No new matter has been added by this amendment.

Allowable Subject Matter

Applicants acknowledge the Examiner's indication that claims 4, 5, 10, 11, 23, and 24 are allowed.

Rejection Under 35 U.S.C. § 102

The rejection of claims 1-3, 7-9, 12-14, and 15-22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,417,643 to Taylor (hereinafter referred to as "Taylor") is respectfully traversed.

Claims 1-3, 7-9, 12-14, and 15-22 were canceled in Applicants' Amendment filed September 28, 2009, thus, rendering the rejection moot. Accordingly, Applicants respectfully request that the Section 102 rejection of claims 1-3, 7-9, 12-14, and 15-22 be withdrawn.

New Claims

Applicants respectfully submit that new claims 46-93 are patentable over Taylor.

Taylor describes a passive motion device (10) including a motivator assembly (18) attached to a chair (12). Motivator assembly (18) includes an elevation drive unit (20) mounted

to a support bracket (22) and a rotation drive unit (30) connected to elevation pivot arms (28). Elevation drive unit (20) is configured to move a patient's arm from a position in which an upper arm lies at a patient's side to a position approximately overhead. Notably, Taylor does not describe or suggest a shoulder orthosis for effecting rotation of an upper portion of an arm relative to a shoulder joint of a patient that includes a base section coupled to a trunk of the patient and a drive assembly configured to rotate a humerus bone in the upper portion of the arm relative to a scapula bone at the shoulder joint.

New claim 46 recites a shoulder orthosis for effecting rotation of an upper portion of an arm relative to a shoulder joint of a patient. The shoulder orthosis comprises "a base section coupled to a trunk of the patient . . . and a drive assembly operatively coupled to the upper arm section, and movable with respect to the upper arm section to rotate a humerus bone in the upper portion of the arm relative to a scapula bone at the shoulder joint."

Taylor does not describe or suggest a shoulder orthosis as recited in claim 46. More specifically, Taylor does not describe or suggest a shoulder orthosis for effecting rotation of an upper portion of an arm relative to a shoulder joint of a patient that includes a base section coupled to a trunk of the patient and a drive assembly configured to rotate a humerus bone in the upper portion of the arm relative to a scapula bone at the shoulder joint. Taylor describes a passive motion device that is attached to a chair. Accordingly, for at least the reasons above, Applicants respectfully submit claim 46 is patentable over Taylor.

New claims 47-65 depend from independent claim 46. When the recitations of claims 47-65 are considered in combination with the recitations of claim 46, Applicants submit that dependent Claims 47-65 likewise are patentable over Taylor.

New claim 66 recites a shoulder orthosis for effecting rotation of an upper portion of an arm relative to a shoulder joint of a patient. The shoulder orthosis comprises "an upper arm section for receiving the upper portion of the arm; a lower arm section for receiving a lower portion of the arm and maintaining the lower portion of the arm substantially orthogonal to the upper portion of the arm; and a drive assembly operatively coupling the lower arm section to the upper arm section, and movable with respect to the upper arm section to rotate a humerus bone in the upper portion of the arm relative to a scapula bone at the shoulder joint of the patient."

Taylor does not describe or suggest a shoulder orthosis as recited in claim 66. More specifically, Taylor does not describe or suggest a shoulder orthosis for effecting rotation of an upper portion of an arm relative to a shoulder joint of a patient that includes an upper arm section for receiving the upper portion of the arm and a lower arm section for receiving a lower portion of the arm such that the lower section maintains the lower portion of the arm substantially orthogonal to the upper portion of the arm. Taylor describes a passive motion device including a cradle having a cradle angle configured to rotate a patient's forearm and upper arm between 90 to 160 degrees, such that a lower arm portion is not maintained substantially orthogonal to an upper portion arm portion. Accordingly, for at least the reasons above, Applicants respectfully submit claim 66 is patentable over Taylor.

New claims 67-78 depend from independent claim 66. When the recitations of claims 67-78 are considered in combination with the recitations of claim 66, Applicants submit that dependent Claims 67-78 likewise are patentable over Taylor.

New claim 79 recites an orthosis for effecting rotation of a limb relative to a joint of a patient. The orthosis comprises "a base section coupled to a trunk of the patient . . . and a drive assembly . . . to rotate a bone relative to the joint of the patient."

Taylor does not describe or suggest an orthosis as recited in claim 79. More specifically, Taylor does not describe or suggest a shoulder orthosis for effecting rotation of a limb relative to a joint of a patient that includes a base section coupled to a trunk of the patient and a drive assembly operatively coupled a first section of the orthosis to rotate a bone relative to a joint. Taylor describes a passive motion device that is attached to a chair. Accordingly, for at least the reasons above, Applicants respectfully submit claim 79 is patentable over Taylor.

New claims 80 depends from independent claim 79. When the recitations of claim 80 are considered in combination with the recitations of claim 79, Applicants submit that dependent Claim 80 likewise is patentable over Taylor.

New claim 81 recites a method for assembling a shoulder orthosis. The method comprises "configuring an upper arm section for receiving the upper portion of the arm; configuring a lower arm section for receiving a lower portion of the arm to maintain the lower

portion of the arm substantially orthogonal to the upper portion of the arm; and operatively coupling the lower arm section to the upper arm section with a drive assembly that is movable with respect to the upper arm section to rotate a humerus bone in the upper portion of the arm relative to a scapula bone at the shoulder joint of the patient.”

Taylor does not describe or suggest a method for assembling a shoulder orthosis as recited in claim 81. More specifically, Taylor does not describe or suggest a method for assembling a shoulder orthosis that includes configuring an upper arm section for receiving a upper portion of an arm and configuring a lower arm section for receiving a lower portion of the arm such that the lower section maintains the lower portion of the arm substantially orthogonal to the upper portion of the arm. Taylor describes a passive motion device including a cradle having a cradle angle configured to rotate a patient’s forearm and upper arm between 90 to 160 degrees, such that a lower arm portion is not maintained substantially orthogonal to an upper portion arm portion. Accordingly, for at least the reasons above, Applicants respectfully submit claim 81 is patentable over Taylor.

New claims 82-93 depend from independent claim 81. When the recitations of claims 82-93 are considered in combination with the recitations of claim 81, Applicants submit that dependent claims 82-93 likewise are patentable over Taylor.

Conclusion

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action are respectfully solicited.

The Commissioner is authorized to charge Deposit Account No. 01-2384 for any fees incurred during the pendency of this application.

Respectfully submitted,

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